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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

STACEY LYNN O'BRIEN, P.T.
660 55th Street
Sacramento, CA 95819

Physical Therapist License No. PT 22657

Respondent.

Case No. 1D 2002 62936

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by Daniel
J. Turner, Deputy Attorney General.

2. Respondent Stacey Lynn O'Brien, P.T. (Respondent) is represented in this
proceeding by attorney Edgardo Gonzalez, whose address is 1300 Clay Street, Suite 600,
Oakland, CA 94612.

3. On or about November 12, 1997, the Physical Therapy Board of California issued Physical Therapist License No. PT 22657 to Stacey Lynn O'Brien, P.T. (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1D 2002 62936 and will expire on May 31, 2005, unless renewed.

JURISDICTION

4. Accusation No. 1D 2002 62936 was filed before the Physical Therapy Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 24, 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 1D 2002 62936 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D 2002 62936. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the First Cause For Discipline (Bus. & Prof. Code § 2660 (k) and (i), aiding and abetting the

1 unlicensed practice of physical therapy); and the Fifth Cause For Discipline (Bus. & Prof. Code
2 § 2660, unprofessional conduct) in Accusation No. 1D 2002 62936.

3 9. Respondent agrees that her Physical Therapist License is subject to
4 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
5 Disciplinary Order below.

6 CIRCUMSTANCES IN MITIGATION

7 10. Respondent Stacey Lynn O'Brien, P.T. has never been the subject of any
8 disciplinary action. She is admitting responsibility at an early stage in the proceedings.

9 RESERVATION

10 11. The admissions made by Respondent herein are only for the purposes of
11 this proceeding, or any other proceedings in which the Physical Therapy Board of California or
12 other professional licensing agency is involved, and shall not be admissible in any other criminal
13 or civil proceeding.

14 CONTINGENCY

15 12. This stipulation shall be subject to approval by the Physical Therapy Board
16 of California. Respondent understands and agrees that counsel for Complainant and the staff of
17 the Physical Therapy Board of California may communicate directly with the Board regarding
18 this stipulation and settlement, without notice to or participation by Respondent or her counsel.
19 By signing the stipulation, Respondent understands and agrees that she may not withdraw her
20 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
21 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
22 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
23 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
24 further action by having considered this matter.

25 13. The parties understand and agree that facsimile copies of this Stipulated
26 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
27 force and effect as the originals.

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1 14. In consideration of the foregoing admissions and stipulations, the parties
2 agree that the Board may, without further notice or formal proceeding, issue and enter the
3 following Disciplinary Order:

4 DISCIPLINARY ORDER

5 IT IS HEREBY ORDERED that Stacey Lynn O'Brien, holder of Physical
6 Therapist License No. PT 22657, shall be publicly reprovved by the Physical Therapy Board of
7 California for violating Business and Professions Code sections 2660, subdivisions (k) and (i)
8 [aiding and abetting the unlicensed practice of physical therapy] and Business and Profession
9 Code section **2660** [unprofessional conduct], as set forth in the First and Fifth Causes For
10 Discipline in Accusation No. 1D 2002 62936 (a copy of which is attached hereto as Exhibit A
11 and hereby incorporated by reference as if fully set forth).

12 IT IS FURTHER ORDERED that respondent shall reimburse the Physical
13 Therapy Board the amount of Five Thousand Six Hundred Seventy Six Dollars (\$5,676.00) for
14 the costs of the investigation and prosecution of the above-entitled matter. However, if
15 respondents makes a monthly payment of One Hundred Dollars (\$100.00) each and every month
16 commencing on the 5th day of each month from the effective date of the Board's Decision, for a
17 period of ten (10) consecutive months, the Board will waive its claim to the additional amount of
18 the investigation and prosecution costs and deem the payment of the total amount of One
19 Thousand Dollars (\$1,000.00) to constitute full payment of these costs. In the event that
20 respondent fails to timely pay any monthly payment or fails to pay the \$1,000.00 within ten
21 months from the effective date of the Board's Decision, the full amount of the investigation and
22 prosecution costs of \$5,676.00 shall be immediately due and payable to the Board.

23 The payment of these costs by respondent is not tolled by her practice of physical
24 therapy or residence outside of California. Failure by respondent to reimburse the Board for
25 these costs shall constitute a violation of the Board's Order and she shall be subject to the
26 provisions of Business and Professions Code section 2661.5 or any related statutes or regulations,
27 unless the Board agrees in writing to payment by a revised payment plan because of financial
28 hardship. The payment of these costs by respondent is not tolled by her practice or residency

1 outside of California.

2 The filing of bankruptcy by the respondent shall not relieve respondent of her
3 responsibility to reimburse the board for its investigation and prosecution costs.

4 If respondent fails to pay the full amount of the cost recovery within the time
5 limits set forth above, Complainant may seek relief pursuant to section 2661.5 of the Code or any
6 related statutes or regulations.

7 IT IS ALSO ORDERED that respondent's physical therapist license may not be
8 renewed unless she is current and in compliance with her payments of the investigation and
9 prosecution costs as set forth above in this Order.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and
12 have fully discussed it with my attorney, Edgardo Gonzalez. I understand the stipulation and the
13 effect it will have on my Physical Therapist License. I enter into this Stipulated Settlement and
14 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
15 Decision and Order of the Physical Therapy Board of California.

16 DATED: November 23, 2004.

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18 Original Signed By:
19 STACEY LYNN O'BRIEN, P.T.
Respondent

20 I have read and fully discussed with Respondent Stacey Lynn O'Brien, P.T. the
21 terms and conditions and other matters contained in the above Stipulated Settlement and
22 Disciplinary Order. I approve its form and content.

23 DATED: November 29, 2004.

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25 Original Signed By:
26 EDGARDO GONZALEZ
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: December 28, 2004.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By:
DANIEL J. TURNER
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. 1D 2002 62936

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DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 18, 2005.

It is so ORDERED February 16, 2005.

Original Signed By: Donald A. Chu, P.T., President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS